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EXTRAORDINARY

PART II—Section 3

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MINISTRY OF HOME AFFAIRS**NOTIFICATION***New Delhi, the 28th April 1951*

S.R.O. 615.—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950), the Central Government hereby extends to the State of Delhi the Bengal Finance (Sales Tax) Act, 1941, (Bengal Act VI of 1941), as at present in force in the State of West Bengal, subject to the following modifications, namely:—

1. Throughout the Act except as otherwise provided—

- (a) for the words "State Government", "Board of Revenue", and "Board", the words "Chief Commissioner" shall be substituted;
- (b) for the words "West Bengal", the words "the State of Delhi" shall be substituted.

2. In section 2,—

- (a) in clause (a) for the words "Commissioner of Commercial Taxes", the words, "Commissioner for Sales Tax" shall be substituted;
- (b) in clause (b) for the words "cash or deferred payment or other valuable consideration" the words "money consideration" shall be substituted;
- (c) for clause (h), the following clause shall be substituted;—

"(h) "sale-price" means—

- (i) in the case of a sale which consists in the transfer of property in goods supplied in the execution of a contract (hereinafter referred to as a sale involved in the execution of a contract)—such portion of the amount of the money consideration for the contract as may be prescribed, representing the price of the goods supplied,
- (ii) in other cases of sale—the amount of the money consideration for the sale, less any sum allowed as cash discount according to ordinary trade practice, but including any sum charged for anything done by the dealer in respect of the goods at the time of, or before, delivery thereof, other than the cost of freight or delivery or the cost of installation when such cost is separately charged;"

(d) for clause (i), the following clause shall be substituted, namely:—

- (i) "turnover" used in relation to any period means the aggregate of the sale-price or part of sale-prices receivable, or if a dealer so elects, actually received by the dealer during such period after deducting the amounts, if any, refunded by the dealer in respect of any goods returned by the purchaser within such period;

Provided that an election as aforesaid once made shall not be altered except with the permission of the Commissioner and on such terms and conditions as he may think fit to impose."

3. In sub-section (1) of section 3, for the words "Commissioner of Commercial Taxes" the words "Commissioner of Sales Tax" and for the word "it" the words "the Chief Commissioner" shall be substituted.

4. In section 4, in clause (c) of sub-section (5) for the figures "50,000" the figures "30,000" shall be substituted.

5. In section 5,—

(a) in sub-section (1) for the words "three-quarters" the words "one-half" shall be substituted;

(b) in sub-section (2) for sub-clause (ii) of clause (a), the following sub-clause shall be substituted, namely:—

"(ii) sales to a registered dealer—

of goods of the class or classes specified in the certificate of registration of such dealer, as being intended for re-sale by him, or for use by him in the manufacture of goods for sale or for use by him in the execution of any contract; and

of containers or other materials for the packing of goods of the class or classes so specified;

Provided that in the case of such sales a declaration duly filled up and signed by the registered dealer to whom the goods are sold and containing prescribed particulars on a prescribed form obtainable from the prescribed authority is furnished in the prescribed manner by the dealer who sells the goods."

6. In sub-section (2) of section 6,—

(a) the words "State Government" shall stand unmodified;

(b) for the words "add to the Schedule", the words "add to or omit from or otherwise amend the Schedule" shall be substituted.

7. For section 9, the following section shall be substituted, namely:—

"9. The Commissioner shall, as soon as may be after the commencement of this Act publish in the Official Gazette a list of the names and addresses of the registered dealers together with a description of the goods covered by the certificate of the registration, and thereafter shall in like manner from time to time publish—

(a) such particulars of any dealer who is subsequently registered or whose registration certificate is amended or whose registration is cancelled as soon as may be after such registration or cancellation, and

(b) a consolidated list embodying the modification made in the first list published under this section".

8. In section 11,—

(a) in sub-section (2) for the words from "who imports for sale any goods" to "expiry of such period", the words "who has been liable to pay tax under this Act in respect of any period but has failed to get himself registered, the Commissioner shall" shall be substituted.

(b) the proviso to sub-section 2(a) shall be omitted.

9. For section 17, the following section shall be substituted, namely:—

"17. Where the ownership of the business of a registered dealer is entirely transferred and the transferee carries on such business either in its old name or in some other name, the transferee shall for all the purposes of this Act (except for liabilities under this Act already registered by such dealer) be deemed to be and to have always been registered as if the certificate of registration of such dealer had initially been granted to the transferee; and the transferee shall on application to the Commissioner be entitled to have the registration certificate amended accordingly."

10. In sub-section (3) of section 21 for the word "Board's" the words "Chief Commissioner's" shall be substituted.

11. In sub-section (2) of section 22, the words "Presidency Magistrate or a" shall be omitted.

12. Clause (5) of sub-section (2) of section 26 shall be omitted.

13. In clause (b) of sub-section (1) of section 27, the words and figures "after the 31st day of March 1951" shall be omitted.

14. For the Schedule, the following Schedule shall be substituted, namely:—

"THE SCHEDULE

(See Section 6).

Exempted goods

1. All cereals and pulses including all forms of rice (except when sold in sealed containers.)
2. Flour including atta, maida, suji and bran (except when sold in sealed containers).
3. Bread.
4. Meat (except when sold in sealed containers).
5. Fish (except when sold in sealed containers).
6. Fresh eggs.
- 6a. Live Stock including poultry.
7. Vegetables, green or dried and vegetable seeds and plants (other than medicinal preparations) (except when sold in sealed containers).
8. Fruits, fresh and dried (except when sold in sealed containers).
9. Gur, sugar, and molasses.
10. Salt.
11. Pepper tamarind and chillies.
12. Fresh milk, whole or separated and milk products.
13. Karadi (safflower) oil and til (sesamun) oil.
14. Turmeric.
15. All edible oils.
16. Ghee.
- 16a. Dahi, butter and khoa.
17. Cloth, of such descriptions as may from time to time be specified by notification in the Gazette, costing less per yard than Rs. 3/- or such other sum as may be so specified.
18. Cloth woven on handlooms exclusively out of handspun yarn and sold by persons dealing exclusively in such cloth.
19. Kumbals, Blankets and rugs costing less than Rs. 15/-
20. Indian hand woven woolen cloth woven on handlooms wholly with handspun yarn, costing not more than Rs. 3/- per yard and sold by persons dealing exclusively in such cloth.
21. Raw cotton including ginned cotton and unginned cotton or kapas, or cotton thread; cotton yarn.
- 21-A. Knitting wool.
22. Cotton seed.
23. Paper and newsprint.
24. School exercise and drawing books.
25. All text books, approved by the Director of Public Instruction.
26. Kerosene.
27. Agricultural machinery and all kinds of Indian made spare parts of mechanically propelled vehicles.
28. Coal including coke and other derivatives; Fuel wood; charcoal.
29. Raw iron and steel and agricultural implements manufactured from the same.
30. Mica.
31. Jute Manufactures.
32. Matches.
33. Cattle feeds including fodder.

738 34. Electrical energy.

35. Motor Spirit."

The text of the said Act as modified is published as an annexure to the notification.

ANNEXURE

BENGAL ACT VI OF 1941.

THE BENGAL FINANCE (SALES TAX) ACT, 1941

WHEREAS it is necessary to make an addition to the revenues of Bengal, and for that purpose to impose a general tax on the sale of goods in Bengal;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Bengal Finance (Sales Tax) Act, 1941.

(2) It extends to the whole of the State of Delhi.

(3) It shall come into force on such date as the Chief Commissioner may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Commissioner" means the Commissioner of Sales Tax appointed under sub-section (1) of section 3;

(b) "contract" means any agreement for carrying out for money consideration.

(i) the construction, fitting out, improvement or repair of any building, road, bridge or other immoveable property, or

(ii) the installation or repair of any machinery affixed to a building or other immoveable property, or

(iii) the overhaul or repair of any motor vehicle;

(c) "dealer" means any person who carries on the business of selling goods in the State of Delhi and includes the Government.

Explanation 1.—A co-operative society or a club or any association which sells goods to its members is a dealer.

Explanation 2.—A factor, a broker, a commission agent, a del credere agent, an auctioneer or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not, who carries on the business of selling goods and who has, in the customary course of business, authority to sell goods belonging to principals is a dealer.

Explanation 3.—The manager or an agent in the State of Delhi of a dealer who resides outside Delhi State and carries on the business of selling goods in the State of Delhi shall, in respect of such business, be deemed to be a dealer;

(d) "goods" includes all materials, commodities and articles but does not include actionable claims, stocks, shares, securities or money.

Explanation.—Goods supplied in the execution of a contract shall be deemed to be goods for the purposes of this Act;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "registered" means registered under this Act;

(g) "sale" means any transfer of property in goods for money consideration and includes a transfer of property in goods supplied in the execution of a contract but does not include a mortgage, hypothecation, charge or pledge; and any grammatical variations of the expression 'sale' shall be construed accordingly.

Explanation 1.—A transfer of goods on hire-purchase or other instalment system of payment shall, notwithstanding that the seller retains a title to any goods as security for payment of the price, be deemed to be a sale.

Explanation 2.—A sale shall be deemed to have taken place in the State of Delhi if the goods are actually delivered in the State of Delhi as a direct result of such sale for the purpose of consumption in the State of Delhi, notwithstanding the fact that under the general law relating to the sale of goods the property in the goods has by reason of such sale passed in another State;'

'(h) "sale-price" means—

- (i) in the case of a sale which consists in the transfer of property in goods supplied in the execution of a contract (hereinafter referred to as a sale involved in the execution of a contract)—such portion of the amount of the money consideration for the contract as may be prescribed, representing the price of the goods supplied,
- (ii) in other cases of sale—the amount of the money consideration for the sale, less any sum allowed as cash discount according to ordinary trade practice, but including any sum charged for anything done by the dealer in respect of the goods at the time of, or before, delivery thereof, other than the cost of freight or delivery or the cost of installation when such cost is separately charged;'

'(i) "turnover" used in relation to any period means the aggregate of the sale-prices or parts of sale-prices receivable, or if a dealer so elects, actually received by the dealer during such period after deducting the amounts, if any refunded by the dealer in respect of any goods returned by the purchaser within such period:

Provided that an election as aforesaid once made shall not be altered except with the permission of the Commissioner and on such terms and conditions as he may think fit to impose;'

'(j) "year" used in relation to any particular dealer means the year by reference to which, according to a declaration made by that dealer, the accounts of that dealer are ordinarily maintained in his books, and where no such declaration is made, the year commencing on the first day of January and reckoned according to the British calendar:

Provided that a registered dealer shall not change his year except with the previous permission of the prescribed authority and except on such terms and conditions as may be determined by such authority.'

3. Taxing authorities.—(1) For carrying out the purposes of this Act, the Chief Commissioner may appoint a person to be Commissioner of Sales Tax, together with such other persons to assist him as Chief Commissioner thinks fit.

(2) Persons appointed under sub-section (1) shall exercise such powers as may be conferred, and perform such duties as may be required, by or under this Act.

(3) All persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

4. Incidence of taxation.—(1) With effect from such date as the Chief Commissioner may, by notification in the Official Gazette, appoint, being not earlier than thirty days after the date of the said notification, every dealer whose gross turnover during the year immediately preceding the commencement of this Act exceeded the taxable quantum shall be liable to pay tax under this Act on all sales effected after the date so notified:

Provided that the tax shall not be payable on sales involved in the execution of a contract which is shown to the satisfaction of the Commissioner to have been entered into on or before the date so notified.

(2) Every dealer to whom sub-section (1) does not apply, shall, if his gross turnover calculated from the commencement of any year exceeds the taxable quantum at any time within such year, be liable to pay tax under this Act, on the expiry of two months from the date on which such gross turnover first exceeds the taxable quantum, on all sales effected after such expiry.

Explanation.—In this sub-section, and in sub-section (4) the expression "period" means a period not exceeding twelve months from the commencement of a year.

'(3) Every dealer who has become liable to pay tax under this Act shall continue to be so liable until the expiry of three consecutive years, during each of which his gross turnover has failed to exceed the taxable quantum and such further period after the date of such expiry as may be prescribed, and on the expiry of this latter period his liability to pay tax shall cease.

(4) Every dealer whose liability to pay tax under this Act has ceased under the provisions of sub-section (3), shall, if his gross turnover calculated from the commencement of any year again exceeds the taxable quantum at any time within such year, be liable to pay such tax on the expiry of two months from the date on which such gross turnover again first exceeds the taxable quantum on all sales effected after such expiry;

(5) In this Act the expression "taxable quantum" means—

- (a) in relation to any dealer who imports for sale any goods into the State of Delhi, or manufactures or produces any goods for sale, 10,000 rupees; or
- (b) in relation to particular classes of dealers not falling within clause (a), such sum as may be prescribed; or
- (c) in relation to any other dealer, 30,000 rupees.

5. Rate of tax.—(1) The tax payable by a dealer under this Act shall be levied at the rate of one half of an anna in the rupee on his taxable turnover.

(2) In this Act the expression "taxable turnover" means that part of a dealer's gross turnover during any period which remains after deducting therefrom—

'(a) his turnover during that period on—

- (i) the sale of goods declared tax-free under section 6;
- (ii) sales to a registered dealer—

of goods of the class or classes specified in the certificate of registration of such dealer, as being intended for re-sale by him, or for use by him in the manufacture of goods for sale or for use by him in the execution of any contract; and

of containers or other materials for the packing of goods of the class or classes so specified:

Provided that in the case of such sales a declaration duly filled up and signed by the registered dealer to whom the goods are sold and containing prescribed particulars on a prescribed form obtainable from the prescribed authority is furnished in the prescribed manner by the dealer who sells the goods;'

'(iii) sales to a registered dealer engaged in the business of raising coal, of any goods which are shown to the satisfaction of the Commissioner to be required directly for use in connection with the raising of coal;'

(iv) sales to any undertaking supplying electrical energy to the public under a licence or sanction granted or deemed to have been granted under the Indian Electricity Act, 1910 (IX of 1910) of goods for use by it in the generation or distribution of such energy;

(v) sales of goods which are shown to the satisfaction of the Commissioner to have been despatched by, or on behalf of, the dealer to an address outside the State of Delhi;

(vi) such other sales as may be prescribed; and

(b) four and one-half per centum of the balance remaining after making the deductions allowed by sub-clause (i) to (vi) of clause (a).

6. (1) No tax shall be payable under this Act on the sale of goods specified in the first column of the schedule, subject to the conditions and exceptions, if any, set out in the corresponding entry in the second column thereof.

(2) The State Government, after giving by notification in the Official Gazette, not less than three months' notice of its intention so to do, may by like notification add to or omit from or otherwise amend the schedule, and thereupon the schedule shall be deemed to be amended accordingly.

7. Registration of dealers.—(1) No dealer shall, while being liable to pay tax under Section 4 of this Act, carry on business as a dealer unless he has been registered and possesses a registration certificate.

(2) Every dealer required by sub-section (1) to be registered shall make application in such behalf in the prescribed manner to the prescribed authority.

(3) If the said authority is satisfied that an application for registration is in order, he shall in accordance with such rules as may be prescribed, register the applicant and grant him a certificate of registration in the prescribed form which shall specify the class or classes of goods for the purposes of sub-clause (ii) of clause (a) of sub-section (2) of section 5.

(4) The Commissioner may from time to time amend any certificate of registration in accordance with information furnished under section 16 or otherwise received.

(5) When any dealer has been convicted or has paid composition money under section 23, in respect of any contravention of sub-section (1) of this section, the Commissioner shall register such dealer and grant him a certificate of registration, and such registration shall take effect as if it had been made under sub-section (3) of this section on the dealer's application.

(6) When—

(a) any business in respect of which a certificate has been granted to a dealer on an application made, has been discontinued or transferred, or

(b) a dealer has ceased to be liable to pay tax under section 4 of this Act, the Commissioner shall cancel the registration.

8. Voluntary registration.—(1) Any dealer whose gross turnover during a year exceeds 10,000 rupees may, notwithstanding that he may not be liable to pay tax under section 4, apply in the prescribed manner to the prescribed authority for registration under this Act.

“Explanation.—A dealer may apply for registration under this section although he deals exclusively in one or more classes of goods specified in the first column of the Schedule.”

(2) The provisions of sub-sections (3) and (4) and clause (a) of sub-section (8) of section 7 shall apply in respect of applications for registration under this section.

(3) Every dealer who has been registered upon application made under this section shall, for so long as his registration remains in force, be liable to pay tax under this Act.

(4) The registration of a dealer upon application made under this section shall be in force for a period of not less than three complete years and shall remain in force thereafter unless cancelled under the provisions of this Act.

(5) Subject to the provisions of sub-section (4), a dealer registered upon application made under this section may apply in the prescribed manner not less than six months before the end of a year to the authority which granted him his certificate of registration for the cancellation of such registration to take effect at the end of the year in which the application for such cancellation is made; and the said authority shall, unless the dealer is liable to pay tax under section 4, cancel the registration accordingly.

9. List of registered dealers to be published.—The Commissioner shall, as soon as may be after the commencement of this Act publish in the Official Gazette a list of the names and addresses of the registered dealers together with a description of the goods covered by the certificate of the registration, and thereafter shall in like manner from time to time publish—

(a) such particulars of any dealer who is subsequently registered or whose registration certificate is amended or whose registration is cancelled as soon as may be after such registration or cancellation, and

(b) a consolidated list embodying the modification made in first list published under this section.

10. Payment of tax and returns.—(1) Tax payable under this Act shall be paid in the manner hereinafter provided at such intervals as may be prescribed.

(2) Such dealers as may be required so to do by the Commissioner by notice served in the prescribed manner and every registered dealer shall furnish such returns by such dates and to such authority as may be prescribed.

(3) Before any registered dealer furnishes the returns required by sub-section (2), he shall, in the prescribed manner, pay into a Government Treasury or the Reserve Bank of India the full amount of tax due from him under this Act according to such returns, and shall furnish along with the returns a receipt from such Treasury or Bank showing the payment of such amount.

(4) If any dealer discovers any omission or other error in any return furnished by him, he may at any time before the date prescribed for the furnishing of the next return by him furnish a revised return; and if the revised return shows a greater amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing payment in the manner provided in sub-section (3) of the extra amount.

11. Assessment of tax.—(1) If no returns are furnished by a registered dealer in respect of any period by the prescribed date, or if the Commissioner is not satisfied that the returns furnished are correct and complete, the Commissioner shall, within eighteen months after the expiry of such period, proceed in such manner as may be prescribed to assess to the best of his judgment the amount of the tax due from the dealer and in making such assessment shall give the dealer a reasonable opportunity of being heard; and in the case of failure by a registered dealer to submit a return in respect of any period, a return accompanied by receipt from a Government Treasury or the Reserve Bank of India as required under sub-section (3) of section 10, by the prescribed date, the Commissioner may, if he is satisfied that the default was made without reasonable cause, direct that the dealer shall pay by way of penalty in addition to the amount of the tax so assessed a sum not exceeding one and a half times that amount.

(2) If upon information which has come into his possession, the Commissioner is satisfied that any dealer, who has been liable to pay tax under this Act in respect of any period but has failed to get himself registered the Commissioner shall proceed in such manner as may be proscribed to assess to the best of his judgment the amount of tax due from the dealer in respect of such period and all subsequent periods and in making such assessment shall give the dealer a reasonable opportunity of being heard; and the Commissioner may, if he is satisfied that the default was made without reasonable cause, direct that the dealer shall pay by way of penalty in addition to the amount of tax so assessed a sum not exceeding one and a half times that amount.

(2a) No assessment under sub-section (1) shall be made after the expiry of four years and no assessment under sub-section (2) shall be made after the expiry of six years from the end of the year in respect of which or part of which the assessment is made:

(3) The amount of tax—

- (a) due where the returns are furnished without receipt showing full payment thereof, or
- (b) assessed under sub-section (1), less the sum, if any, already paid by the dealer in respect of the said period, or
- (c) assessed under sub-section (2),

shall, together with any penalty that may be directed to be paid under any of the provisions of this section, be paid by the dealer into a Government Treasury or the Reserve Bank of India by such date as may be specified in a notice issued by the Commissioner for this purpose and the date to be so specified shall be not less than thirty days from the date of service of such notice:

Provided that the Commissioner may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of such payment or allow such dealer to pay the tax due and the penalty if any by instalments.

(4) Any amount of tax or penalty which remains unpaid after the date specified in the said notice shall be recoverable as an arrear of land-revenue.

(5) Any assessment made under this section shall be without prejudice to any prosecution instituted for an offence against this Act.

12. (1) The Commissioner shall, in the prescribed manner, refund to a dealer applying in this behalf any amount of tax or penalty paid by such dealer in excess of the amount due from him under this Act, either by cash payment or, at the option of the dealer, by deduction of such excess from the amount of tax due in respect of other period:

Provided that no refund shall be made unless the claim for refund is made within twelve months from the date of the assessment of tax or the date of the imposition of penalty or within six months from the date of any final order passed on appeal, revision or review under section 20 or reference under section 21, whichever period expires later.

(2) Nothing in sub-section (1) shall be deemed to empower the Commissioner to amend, vary or rescind any assessment or to amend, vary or rescind any order passed on appeal, revision or review under section 20 or reference under section 21, or to confer on a dealer any relief in addition to what he is entitled under the provisions of this Act."

13. Accounts.—Every registered dealer or other dealer on whom a notice has been served to furnish returns under sub-section (2) of section 10, shall keep a true account of the value of goods bought and sold by him, and if the Commissioner considers that such account is not sufficiently clear and intelligible to enable him to make a proper check of the returns referred to in that sub-section, he may require such dealer by notice in writing to keep such accounts (including records of sales) as may be prescribed.

14. Production and inspection of accounts and documents, and search of premises.—“(1) The Commissioner may, subject to such conditions as may be prescribed, require any dealer—

- (a) to produce before him any accounts, registers or documents,
- (b) to furnish any information, relating to the stock of goods of, or purchases, sales or deliveries of goods by, the dealer or relating to any other matter,

as may be deemed necessary for the purposes of this Act.”;

“(2) (a) All accounts, registers and documents relating to the stocks of goods of, or purchases, sales and deliveries of goods by, any dealer; and

- (b) all goods kept in any place of business of any dealer.

shall at all reasonable times be open to inspection by the Commissioner.”;

(3) If the Commissioner has reason to suspect that any dealer is attempting to evade payment of any tax under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same only for so long as may be necessary for examination thereof or for a prosecution.

(4) For the purposes of sub-section (2) or sub-section (3) the Commissioner may enter and search any place of business of any dealer.

or

any other place where the Commissioner has, upon information received, reason to believe that the dealer keeps or is for the time being keeping any accounts, registers or documents of his business.

15. Delegation of Commissioner's powers.—Subject to such restrictions and conditions as may be prescribed, the Commissioner may by order in writing delegate any of his power under this Act except those under sub-section (2) of section 22 to any person appointed under section 3 to assist him.

16. Information to be furnished regarding changes of business.—If any dealer to whom the provisions of sub-section (2) of section 10 apply,—

- (a) sells or otherwise disposes of his business or any part of his business or any place of business, or effects or comes to know of any other change in the ownership of the business.
- (b) discontinues his business or changes his place of business or opens a new place of business, or
- (c) changes the name or nature of his business or effects any change in the class or classes of goods in which he carries on his business and which is or are specified in his certificate of registration.”

17. Transfer of Business.—Where the ownership of the business of a registered dealer is entirely transferred and the transferee carries on such business either in its old name or in some other name, the transferee shall for all the purposes of this Act (except for liabilities under this Act already discharged by such dealer) be deemed to be and to have always been registered as if the certificate of registration of such dealer had initially been granted to the transferee; and the transferee shall on application to the Commissioner be entitled to have the registration certificate amended accordingly.”

18. Omitted—

19. Bar to certain proceedings.—Save as is provided in section 21, no assessment made and no order passed under this Act or the rules made thereunder by the Commissioner or any person appointed under section 3 to assist him shall be called into question in any Civil Court, and save as is provided in section 20, no appeal or application for revision or review shall lie against any such assessment or order.

20. Appeal, revision and review.—(1) Any dealer may in the prescribed manner appeal to the prescribed authority against any assessment within sixty days or such further period as may be allowed by the Commissioner for cause shown to his satisfaction from the receipt of a notice issued under sub-section (3) of section 11 in respect thereof:

Provided that no appeal shall be entertained by the said authority unless he is satisfied that such amount of the tax as the appellant may admit to be due from him has been paid.

(2) Subject to such rules of procedure as may be prescribed, the appellate authority, in disposing of any appeal under sub-section (1), may—

(a) confirm, reduce, enhance or annul the assessment, or;

(b) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed.

(3) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Commissioner upon application or of his own motion may revise any assessment made or order passed under this Act or the rules thereunder by a person appointed under section 3 to assist him, and subject as aforesaid, the Chief Commissioner may, in like manner, revise any order passed by the Commissioner:

Provided that before rejecting any application for the revision of any such order the Commissioner or the Chief Commissioner, as the case may be, shall consider it and shall record reasons for such rejection.

"Provided further that no application for revision shall lie to the Commissioner in respect of any assessment if an appeal lies under sub-section (1) to the Commissioner in respect of such assessment.

"(4) Subject to such rules as may be prescribed, any assessment made or order passed under this Act or the rules made thereunder by any person appointed under section 3 may be reviewed by the person passing it upon application or of his own motion."

(5) Before any order is passed under this section which is likely to affect any person adversely, such person shall be given reasonable opportunity of being heard.

Explanation.—In this section "assessment" includes imposition of penalty.

21. Statement of case to High Court.—(1) Within sixty days from the passing by the Chief Commissioner of any order under sub-section (3) of section 20 affecting any liability of any dealer to pay tax under this Act, such dealer may, by application in writing accompanied by a fee of one hundred rupees, require the Chief Commissioner to refer to the High Court any question of law rising out of such order.

(2) If, for reasons to be recorded in writing, the Chief Commissioner refuses to make such reference, the applicant may, within thirty days of such refusal, either—

(a) withdraw his application (and if he does so, the fee paid shall be refunded), or

(b) apply to the High Court against such refusal.

(3) If upon the receipt of an application under clause (b) of sub-section (2), the High Court is not satisfied of the correctness of the Chief Commissioner's decision, it may require the Chief Commissioner to state the case and refer it, and on the receipt of such requisition, the Chief Commissioner shall state and refer the case accordingly.

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Chief Commissioner to make such additions thereto or alterations therein as the Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Chief Commissioner a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Chief Commissioner shall dispose of the case accordingly.

(6) Where a reference is made to the High Court under this section, the costs (including the disposal of the fee) shall be in the discretion of the Court.

(7) The payment of the amount, if any, of tax due in accordance with the order of the Chief Commissioner in respect of which an application has been made under sub-section (1) shall not be stayed pending the disposal of such application

or any reference made in consequence thereof, but if such amount is reduced as the result of such reference, the excess tax paid shall be refunded in accordance with the provisions of section 12.

21A. The Commissioner or any person appointed to assist him under sub-section (1) of section 3 shall, for the purposes of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
 - (b) compelling the production of documents; and
 - (c) issuing commissions for the examination of witnesses;
- and any proceeding under this Act before the Commissioner or any person appointed to assist him under sub-section (1) of section 3 shall be deemed to be a 'judicial proceeding' within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code.

22. Offences and penalties.—(1) Whoever—

- (a) carries on business as a dealer in contravention of sub-section (1) of section 7; or
- (b) fails, without sufficient cause, to submit any return as required by sub-section (2) of section 10 or submits a false return; or
- (c) being a registered dealer, falsely represents when purchasing any class of goods, that goods of such class are covered by his certificate of registration; or
- (d) not being a registered dealer, falsely represents when purchasing goods that he is a registered dealer; or
- (e) fails, when required so to do under section 13, to keep prescribed accounts or records of sales; or
- (f) refuses to comply with any requirement made of him under sub-section (1) of section 14; or
- (g) knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information; or
- (h) obstructs any officer making an inspection or a search or a seizure under section 14; or
- (i) neglects to furnish any information required by section 16;

shall be punishable with simple imprisonment which may extend to six months or with fine or with both, and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence:

Provided that no prosecution for an offence against this Act shall be instituted in respect of the same facts in respect of which a penalty has been imposed under section 11.

(2) No Court shall take cognizance of any offence under this Act, or under the rules made thereunder except with the previous sanction of the Commissioner, and no Court inferior to that of a Magistrate of the first class shall try any such offence.

(3) All offences punishable under this Act shall be cognisable and bailable.

23. Compounding of offences.—(1) Subject to such conditions as may be prescribed, the Commissioner may accept, from any person alleged to have committed an offence under sub-section (1) of section 22 or under any rules made under this Act, either before or after the commencement of any proceedings against such person in respect of such offence, by way of composition for such offence, a sum not exceeding five thousand rupees or where the offence alleged to have been committed is under clause (a) or clause (b) of that sub-section, not exceeding double the amount of the tax which would have been payable by such person had he complied with the provisions of the Act, whichever is greater.

(2) On payment in full of such sum as may be determined by the Commissioner under sub-section (1)—

- (a) no proceedings shall be commenced against such person as aforesaid; and

- (b) if any proceedings have been already commenced against such person as aforesaid such proceedings shall not be further proceeded with

24. Indemnity—No suit prosecution or other legal proceedings shall lie against any servant of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder

25. Returns etc., to be confidential—(1) All particulars contained in any statement made return furnished or accounts or documents produced in accordance with this Act or in any record of evidence given in the course of any proceedings under this Act other than proceedings before a Criminal Court, shall, save as provided in sub-section (3) be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872 (I of 1872), no Court shall save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement return account, document or record or any part thereof or to give evidence before it in respect thereof

(2) If save as provided in sub-section (3) any servant of the Government discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine

(3) Nothing in this section shall apply to the disclosure—

- (a) of any of the particulars referred to in sub-section (1) for the purposes of a prosecution under the Indian Penal Code (Act XLV of 1860) in respect of any such statement, return, accounts, document or evidence or for the purposes of a prosecution under this Act, or
- (b) of such facts to an officer of the Central Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it

26. Power to make rules.—(1) The Chief Commissioner may, subject to the condition of previous publication make rules for carrying out the purposes of this Act

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the proportion referred to in sub-clause (1) of clause (h) of section 2;
- (aa) the authority referred to in the proviso to clause (j) of section 2,
- (b) the further period after the date of expiry of three consecutive years referred to in sub-section (3) of section 4,
- (bb) the particulars to be contained in a declaration under sub-clause (ii) of clause (a) of sub-section (2) of section 5, the form of such declaration, the authority from which such form shall be obtainable and the manner in which such declaration is to be furnished,
- (c) the taxable quantum for particular classes of dealers under clause (b) of sub-section (5) of section 4,
- (d) the other sales turnover in respect of which may be deducted from a dealer's gross turnover in computing his taxable turnover as defined in section 5,
- (e) the authority to which applications for registration under section 7 or section 8 shall be made,
- (f) the procedure for, and other matters incidental to, the registration of dealers and the granting of certificates of registration, and the form of such certificates under section 7 or section 8,
- (g) the intervals at which and the manner in which, the tax under this Act shall be payable under section 10,
- (h) the returns to be furnished under sub-section (2) of section 10, and dates by which, and the authority to which, such returns shall be furnished,
- (i) the date by which returns for any period are to be furnished and the procedure to be followed for assessment under section 11;
- (j) the manner in which refunds under section 12 shall be made;
- (k) the accounts and forms thereof required by section 13,
- (l) the conditions under which the production of accounts or documents or the furnishing of information may be required under sub-section (1) of section 14,

- (m) the restrictions and conditions subject to which the Commissioner may delegate his powers under section 15;
 - (n) the authority to which information shall be furnished under section 16;
 - (o) the manner in which, and the authority to which, appeals against assessment may be preferred under section 20;
 - (p) the procedure for, and other matters (including fees) incidental to, the disposal of appeals and applications for revisions and reviews under section 20;
 - (q) the conditions under which offences may be compounded under section 23;
 - (r) the manner in which, and the time which, applications shall be made, information furnished and notices served, under this Act;
 - (s) the sacred books referred to in item 21 in the first column of the Schedule.
 - (t) any other matter required to be prescribed.
- (3) In making any rule the Chief Commissioner may direct that a breach thereof shall be punishable with fine not exceeding five hundred rupees, and when the offence is a continuing one, with a daily fine not exceeding twenty-five rupees during the continuance of the offence.

27. (1) Notwithstanding anything contained in this Act,—

- (a) a tax on sale or purchase of goods shall not be imposed under this Act—
 - (i) where such sale or purchase takes place outside the State of Delhi;
 - (ii) where such sale or purchase takes place in the course of import of the goods into, or export of the goods out of, the territory of India;
- (b) a tax on the sale or purchase of any goods shall not be imposed where such sale or purchase takes place in the course of Inter State trade or commerce except in so far as Parliament may by law otherwise provide.

SCHEDULE

(See Section 6)

Exempted goods.

1. All cereals and pulses including all forms of rice (except when sold in sealed containers.)
2. Flour including atta, maida, suji and bran (except when sold in sealed containers.)
3. Bread.
4. Meat (except when sold in sealed containers).
5. Fish (except when sold in sealed containers.)
6. Fresh eggs.
- 6a. Live stock including poultry.
7. Vegetables, green or dried and vegetable seeds and plants (other than medical preparations) (except when sold in sealed containers).
8. Fruits, fresh and dried (except when sold in sealed containers).
9. Gur, sugar, and molasses.
10. Salt.
11. Pepper, tamarind and chillies.
12. Fresh milk, whole or separated and milk products.
13. Karadi (safflower) oil and til (sesamum) oil.
14. Turmeric.
15. All edible oils
16. Ghee.
- 16a. Dahi, butter and khoa.

17. Cloth of such descriptions as may from time to time be specified by notification in the Gazette, costing less per yard than Rs. 3/- or such other sum as may be so specified.

18. Cloth woven on handlooms exclusively out of handspun yarn and sold by persons dealing exclusively in such cloth.

19. Kumbals, Blankets and rugs costing less than Rs. 15/-.

20. Indian hand woven woolen cloth woven on handlooms wholly with hand-spun yarn, costing not more than Rs. 3/- per yard and sold by persons dealing exclusively in such cloth.

21. Raw cotton including ginned cotton and unginned cotton or kapas, or cotton thread; cotton yarn.

21A. Knitting wool.

22. Cotton seed.

23. Paper and newsprint.

24. School exercise and drawing books.

25. All text books, approved by the Director of Public Instruction.

26. Kerosene.

27. Agricultural machinery and all kinds of Indian made spare parts of mechanically propelled vehicles.

28. Coal including coke and other derivatives; Fuel wood; charcoal.

29. Raw iron and steel and agricultural implements manufactured from the same.

30. Mica.

31. Jute Manufactures.

32. Matches.

33. Cattle feeds including fodder.

34. Electrical energy.

35. Motor spirit.

[No. 20/3/50-Judl.]

S. B. BAPAT, Joint Secy.